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SUBJECT: SUZHOU LABOR EXPERT VIEWS ON LABOR CONTRACT LAW, ACFTU, AND
COLLECTIVE BARGAINING

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use only. Not for distribution outside of USG channels or via
the internet.

1. (SBU) Summary. In a September 20 meeting, Suzhou University
Law School Professor and labor expert Shen Tongxian downplayed
the importance of the new Labor Contract Law (LCL) and said that
the law could actually have an adverse affect on workers as
companies find ways to circumvent it. Shen also had a negative
view of All-China Federation of Trade Unions (ACFTU), which she
believes is ineffective in representing workers. The union does
not have labor experts on staff and, more importantly, did not
have the power to organize strikes. She also emphasized the
importance of improving workers' safety, which she called a
"worker's basic human right." End Summary.

LCL: Counterproductive

2. (SBU) On September 20, Poloff and FSN Political Assistant
met with Suzhou University Law School Associate Professor Shen
Tongxian to discuss the new Labor Contract Law (LCL), collective
bargaining and the role of ACFTU. Professor Shen is a leading
labor expert in China and provides training to lawyers and local
government officials on protecting workers' rights.

3. (SBU) Professor Shen downplayed the importance of the new
LCL and said it could have an adverse affect on workers in
China. While it shifts some power from the government to the
workers, companies can and will try to find ways to circumvent
the law. For example, the LCL requires employers to sign a
permanent contract with employees who have worked at the company
for more than ten years. Rather than signing the contracts,
Professor Shen predicted that many companies would just fire the
workers before the tenth year. She discounted arguments that
the LCL will lead to higher labor costs and cause multinational
companies (MNC) to move factories away from China. The LCL will
only affect dispatch companies which provide workers to other
companies and companies who violated labor laws in the past.
Most MNCs obey the law and have good labor practices. However,
some foreign companies, especially those from Taiwan, will

continue to violate labor laws without any ramifications. Local governments tolerate these violations because they want to protect foreign investment.

Trade Union: Weak Representatives

¶4. (SBU) According to Professor Shen, the ACFTU is not effective in representing workers. First, it is not able to effectively pressure companies during labor negotiations because Chinese law does not allow the trade union to organize strikes. Second, the people who work for the trade union are not labor experts and are unable to effectively enforce the law. However, since the trade union has close ties to the government and the organization itself is a semi-governmental organization, it has a lot of influence on labor legislation.

Collective Bargaining

¶5. (SBU) Professor Shen is also pessimistic about the impact of collective bargaining. China is currently considering a collective labor contract law in order to give employees more advantages in negotiating contracts with companies. The purpose of adopting the new law is to solve labor disputes through negotiations and consultations instead of confrontation. However, Shen said that it is likely that the ACFTU will play a big role in collective bargaining as it in theory represents the workers. Unfortunately, the ACFTU is not independent and is unable to organize strikes, which limits its ability to negotiate collective contracts with companies. She believes that the law, therefore, will have limited effect.

Work Safety: A Worker's Basic Human Right

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¶6. (SBU) According to Professor Shen, Chinese workers nowadays are more aware of their rights, but often give up filing legal cases because of high court costs. In addition, local governments are not able to provide workers with much legal assistance because there are few labor experts in China. Shen believes that promoting work safety is the most important area for labor rights protection and said work safety is a worker's "basic human right." At present, China's main industry is manufacturing, which has a high rate of work related accidents, injuries and deaths. She urged that in work injury related cases, judges should fully support workers and help workers get compensation for mental and physical problems caused by work accidents. In the cases in which workers violate laws and company guidelines, judges should rule in favor of the companies. Shen believes that through this "virtuous circle" companies will learn how to abide by labor laws.

Shen's Labor Programs

¶7. (SBU) Besides teaching labor law courses at Suzhou University, Professor Shen runs a three-day labor training program for lawyers, judges, labor dispute arbitrators and representatives who work at the local ACFTU legal affairs department. The purpose of the training is to raise awareness of labor laws and to improve the trainees' capability during trials. According to Professor Shen, the sessions have been very effective in teaching participants how to best protect worker's rights. In one session, a judge admitted that he made mistakes in a previous labor dispute case. Professor Shen will also begin a legal clinic program for law school students next year.

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